

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;)	Civ. No. CV03 00385 SOM-LEK
)	(Copyright)
Plaintiff,)	
)	MEMORANDUM IN SUPPORT OF
vs.)	MOTION
)	
HAWAIIAN EXPRESS SERVICE,)	
INC., a California corporation; et al.)	
)	
Defendants.)	
_____)	

MEMORANDUM IN SUPPORT OF MOTION

Leaving aside that Bradley Dechter is Mr. Berry's competitor and that he failed to even sign his expert report, the Court should bar his testimony as irrelevant because Mr. Dechter failed, by his own admission, to review Mr. Berry's freight control system that is relevant to his case. *See* Unsigned Expert Report of Bradley Dechter, Declaration of Timothy J. Hogan at Exhibit "A." This is a case about a specific piece of software. Mr. Dechter didn't even look at it.


In addition, Mr. Dechter has not shown any foundation for his being able to testify regarding the entire universe of business software applicable to the shipping industry but to assume his report has any validity, the Court must grant

him this degree of knowledge that is nowhere evident from his report or its absent curriculum vitae. In short, the testimony of Bradley Dechter on the universe of freight industry software lacks the minimum required foundation to be found relevant or helpful and should be excluded.

Based on the foregoing, the Court is respectfully asked to rule *In Limine* that no testimony from Mr. Dechter may be permitted as to any matter and that his report be ruled irrelevant.

Dated: Honolulu, Hawaii

JAN 3 2006


TIMOTHY J. HOGAN
Attorney for Plaintiff